

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

JAMES R. GLOVER, M.D.)
License No. A-023866)

Respondent.)

Case No. D-3495

OAH No. N-2743

DECISION

The Division of Medical Quality non-adopted a Proposed Decision recommended by a panel of the Third Medical Quality Review Committee (MQRC). The Division proceeded to decide the case itself upon the record, including the transcript. The parties were afforded the opportunity to present both written and oral argument to the Division itself.

Having reviewed the entire matter, the Division now makes this decision:

The attached Proposed Decision of the MQRC panel is hereby adopted by the Division as its final decision in the case, except that certain parts of the penalty order in the Proposed Decision are amended as follows:

1. Add probation condition K, as follows:

Oral Clinical Examination in Psychopharmacology

ADDED:

"K. Within 60 days of the effective date of this decision, respondent shall take and pass an oral clinical examination in psychopharmacology to be administered by the Division or its designee. If respondent fails this examination, respondent must take and pass a re-examination consisting of a written as well as an oral clinical examination. The waiting period between repeat examinations shall be at three month intervals until success is achieved. The Division shall pay the cost of the first examination and respondent shall pay the cost of any subsequent re-examinations.

"If respondent fails the first examination, respondent shall cease the practice of medicine until the re-examination has been successfully passed, as evidenced by written notice to

respondent from the Division."

2. Amend Probation condition F (Monitoring) by deleting the following sentence requiring the monitor to approve each and every prescription and refill in advance, which is not practical:

DELETED: "The monitor approved by the Division shall be available to approve prescriptions written by respondent and refills before the prescriptions are given to patients."

3. Amend probation condition D (maintain record of drugs) by adding this requirement at the end of the condition:

ADDED: "Respondent shall use printed prescription forms with consecutive serial numbers for easy future reference."

The effective date of this Decision shall be

February 8, 1988.

So ordered January 8, 1988.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE

By 

BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

NO. D-3495

JAMES R. GLOVER, M.D.)
Certificate No. A-23866)

NOTICE OF NON-ADOPTION
OF PROPOSED DECISION

Respondent.)

TO ALL PARTIES:

YOU ARE HEREBY NOTIFIED that the Division of Medical Quality did not adopt the proposed decision in this case. The Division will now decide the case itself upon the record, including the transcript.

You are now afforded the opportunity to present both oral and written argument to the Division. If you want to make oral argument, you must file with the Division within 20 days from the date of this notice your written request for oral argument. Otherwise, this option shall be deemed waived. If any written request is timely received, all parties will then be notified in writing of the date, time and place for hearing oral arguments from both sides.

As to written argument, you will be notified in writing of the deadline date to file your written argument with the Division. Your right to argue on any matter is not limited, but the Division would be interested in persuasive discussions on the following matters:

Why the penalty should not be increased

For its own use, the Division has ordered the preparation of the hearing transcript and records. At your own expense, you may order a copy of the same by personally contacting the transcript clerk at the Office of Administrative Hearings at: 501 J Street, Suite 230, Sacramento, CA 95814

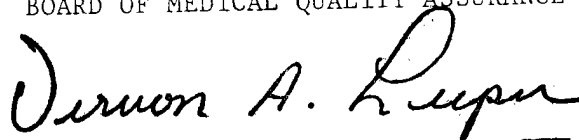
Phone No. (916) 445-4926

Please remember to include your proof of service that the opposing attorney was served with a copy of your written argument to the Division. The address for mailing or serving your request for oral argument and your written argument to the Division is as follows:

Division of Medical Quality
1430 Howe Avenue
Sacramento, CA 95825

DATED: July 7, 1987.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE



VERNON A. LEEPER, Chief
Enforcement Program

BEFORE THE
DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

JAMES R. GLOVER, M.D.)
3235 Jaylee Drive)
Santa Rosa, CA 95404)
License No. A-23866)

Respondent.)

CASE NO. D-3495

OAH NO. N-27543

PROPOSED DECISION

This matter was heard before a hearing panel of the Third Medical Quality Review Committee consisting of: Neill Barker, Pharm. D.; Paul Puebla, Public Member; Charles Queary, M.D.; and Michael Remler, M.D. and Chairperson, on October 24, 1986 and March 27, 1987 at Santa Rosa, California. Stewart A. Judson, Administrative Law Judge, State of California, Office of Administrative Hearings, presided.

The complainant was represented by V. Hara Hersh, Deputy Attorney General. James R. Glover, M.D. was present and was represented by John W. Hawkes, Esq., 1011 College Avenue, Santa Rosa, California 95404.

FINDINGS OF FACT

I

The accusation was made by Kenneth J. Wagstaff in his official capacity as the Executive Director of the Board of Medical Quality Assurance, Department of Consumer Affairs, State of California.

II

Following the submission of a Proposed Decision by the hearing panel after the hearing on October 24, 1986, the Division of Medical Quality, by its order dated February 20, 1987, remanded the matter back to the panel for the taking of additional evidence.

III

On August 3, 1970, the Board of Medical Quality Assurance issued to James R. Glover, M.D. (respondent) physician and surgeon certificate No. A-023866. Respondent's address of record is 3235 Jaylee Drive, Santa Rosa, California. Respondent has been disciplined previously and currently is on probation status as follows: On August 21, 1985, in Case No. D-3303, respondent entered into a stipulation admitting that cause existed to revoke or suspend his physician and surgeon certificate and agreeing to discipline consisting of a revocation stayed for a period of five years probation including a thirty day suspension, relinquishment of his DEA* permit for Schedule II and III controlled substances and an oral/clinical examination in the medical therapeutics of controlled substances. Said stipulation was adopted by the Board as its decision on October 23, 1985, and the decision became effective on November 22, 1985.

III

All drugs mentioned herein are controlled substances and dangerous drugs as described in Schedules I, II, III, IV or V within the meaning of Sections 11055, 11056, 11057 and 11058 of the Health and Safety Code.

IV

Respondent has taken and successfully passed his oral/clinical examination in the medical therapeutics of controlled substances, which concerned basic knowledge of the proper use and prescribing of controlled substances, as of December 20, 1985.

First Cause for Disciplinary Action

V

Prior to the effective date of the decision against respondent in Case No. D-3303, respondent met with the Board's probation officer, Gerald McClellan. In that meeting, respondent was told that he would not be able to possess any controlled substances during his thirty day suspension. Respondent indicated that he had only a few manufacturers' samples and would dispense them or give them away to a colleague before the effective date.

*Drug Enforcement Administration.

VI

On November 22, 1985, the effective date of the decision in Case No. D-3303, respondent met with Gerald McClellan in order to surrender his medical license for the thirty day suspension. Respondent indicated he had no controlled substances in his possession and that they had been dispensed to patients prior to the effective date. McClellan requested respondent's drug inventory record per Business and Professions Code section 4232, and respondent produced it.

VII

Respondent's drug record indicated that he had in his possession several thousand dosage units of controlled substances. Most of these drugs were later found in the office of respondent's colleague**, at respondent's residence and in respondent's storage room.

Second Cause for Disciplinary Action

VIII

The matters found in the First Cause for Disciplinary Action are incorporated herein.

IX

Respondent's drug inventory record indicated he had self-prescribed or self-administered controlled substances as follows:

Dalmane #10	30.0 mg	4/27/85
Halcion #10	0.25 mg	4/27/85
Halcion #8	0.25 mg	8/3/85
Restoril #3	15.0 mg	4/17/85
Restoril #3	30.0 mg	4/17/85
Restoril #6	30 mg	4/27/85
Valium #5	10 mg	4/22/85
Valium #20	10 mg	5/16/85

Respondent was also self-prescribing and administering Valium, Xanax and other benzodiazapines from his own supply from September through November 22, 1985.

**Respondent's colleague was a licensed psychologist.

Third Cause for Disciplinary Action

X

The matters found in the First Cause for Disciplinary Action are incorporated herein.

XI

In respondent's drug inventory report, he listed the following Schedule II controlled substances:

Dexedrine #64	5 mg
Ritalin #7	5 mg
Ritalin #4	10 mg

Respondent did not have these drugs in his possession, and there were no records to indicate their usage.

Fourth Cause for Disciplinary Action

XII

The matters found in the First Cause for Disciplinary Action are incorporated herein.

XIII

Respondent's actual supply of controlled substances and other dangerous drugs, when compared with his drug inventory record, indicate that the number counts of the actual drugs differed significantly (were greater or lesser in number) from the amounts in his drug inventory record.

Fifth Cause for Disciplinary Action

XIV

The matters found in the First Cause for Disciplinary Action are incorporated herein.

XV

Included in respondent's actual supply of controlled substances and other dangerous drugs were several vials of medications which were obtained in various patient names and returned to respondent in the pharmacy-dispensed vials. Respondent dispensed these medications to patients for whom they were not prescribed.

DETERMINATION OF ISSUES

I

First Cause for Disciplinary Action: Respondent violated Section 11173(a) of the Health and Safety Code. Cause for disciplinary action exists under Sections 2238 and 2234 of the Business and Professions Code.

II

Second Cause for Disciplinary Action: Respondent violated Section 11170 of the Health and Safety Code and Section 2239(a) of the Business and Professions Code. Cause for disciplinary action exists under Sections 2238 and 2234 of the Business and Professions Code.

III

Third Cause for Disciplinary Action: Respondent violated Sections 11190 and 11192 of the Health and Safety Code. Cause for disciplinary action exists under Sections 2238 and 2234 of the Business and Professions Code..

IV

Fourth Cause for Disciplinary Action: Respondent violated Section 4232 of the Business and Professions Code and Section 1718 of Title 16, California Administrative Code. Cause for disciplinary action exists under Sections 2238 and 2234 of the Business and Professions Code.

V

Fifth Cause for Disciplinary Action: Respondent violated Sections 26630 and 26650 of the Health and Safety Code. Cause for disciplinary action exists under Section 2238 and 2234 of the Business and Professions Code.

VI

The panel considered an actual suspension but determined that such would not be necessary to protect the public welfare in view of the recommended probationary conditions.

ORDER

1. Physician and surgeon certificate No. A-023866 of James R. Glover, M.D. is revoked under Determinations I, II, III, IV and V hereinabove separately and severally.

2. The revocation is stayed, and respondent's current probationary status (Case No. D-3303) shall be continued with addition of the following terms and conditions to which respondent shall be separately and severally liable:

- A. The length of probation set forth in the decision in Case No. D-3303 before the Board is hereby extended by two (2) years to November 22, 1992.
- B. Respondent shall not prescribe, administer, dispense, order or possess anywhere any controlled substances as defined by the California Uniform Controlled Substances Act.
- C. Respondent is prohibited from practicing medicine until he provides documentary proof to the Division that his DEA permit has been surrendered to the Drug Enforcement Administration for cancellation together with any triplicate forms and federal order forms. Thereafter, respondent shall not reapply for a new DEA permit without the prior written consent of the Division or its designee.
- D. Respondent shall maintain carbon copies of all prescriptions for dangerous drugs made during probation showing the name and address of the patient, the date, the character and quantity of dangerous drugs involved, the pathology and purpose for which the dangerous drug was furnished and the details such as date, time and mechanics of obtaining approval of his proctor. Respondent shall keep these records in a separate file or ledger, in chronological order, and shall make them available for inspection and copying by the Division or its designee, upon request.
- E. Respondent shall not possess dangerous drugs or dispense, including but not limited to sampling, dangerous drugs to his patients. In each case, he shall prescribe said drugs for his patients and keep a duplicate record of the prescriptions as in Condition D hereinabove.
- F. Within thirty (30) days of the effective date of this Decision, respondent shall submit to the Division for its prior approval a plan of practice in which respondent's practice shall be monitored by another psychiatrist skilled and experienced in the clinical use of psychopharmacology who shall monitor respondent's practice with special emphasis on respondent's understanding of the legal and clinical responsibilities involved in the use of dangerous drugs. The monitor approved by the Division shall be available to approve prescriptions written by respondent and any refills before the prescriptions are given to

patients. If the monitor quits or is no longer available, respondent shall not practice until a new monitor has been substituted through nomination by respondent and approved by the Division.

Before accepting his responsibility, the monitor approved by the Division shall provide to the Division a certification that:

- (i) He/she has read the Decision of the Division, and
- (ii) He/she agrees to accept the responsibility for monitoring respondent's practice in accordance with the terms of this probation.

G. Respondent shall abstain completely from the personal use or possession anywhere of controlled substances as defined in the California Uniform Controlled Substances Act, and dangerous drugs as defined under Section 4211 of the Business and Professions Code, or any drugs requiring a prescription. Orders forbidding respondent from personal use or possession of controlled substances or dangerous drugs do not apply to medications lawfully prescribed to respondent for a bona fide illness or condition by another practitioner. For purposes of this condition, respondent's family members are considered as patients to whom this condition applies.

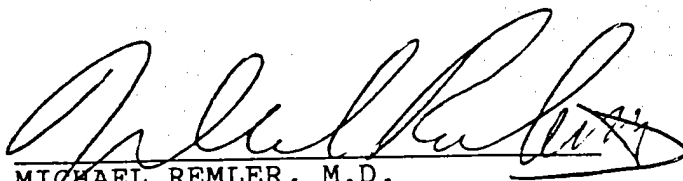
H. Respondent shall immediately submit to biological fluid testing upon the request of the Division or its designee.

I. Respondent shall continue to comply with all conditions of probation set forth in the decision in Case No. D-3303 before the Board.

J. Upon successful completion of probation, respondent's certificate will be fully restored. If respondent violates probation in any respect, the Division, after giving respondent notice and an opportunity to be heard, may revoke probation and carry out the disciplinary order

that was stayed. If an accusation and/or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

DATED: April 17, 1989


MICHAEL REMLER, M.D.
Chairman

MR:SAJ:lhj

1 JOHN K. VAN DE KAMP, Attorney General
of the State of California
2 VIVIEN HARA HERSH
Deputy Attorney General
3 6000 State Building
San Francisco, California 94102
4 Telephone: (415) 557-1346

5 Attorneys for Complainant

6
7 BEFORE THE
8 BOARD OF MEDICAL QUALITY ASSURANCE
9 DIVISION OF MEDICAL QUALITY
10 STATE OF CALIFORNIA

11 In the Matter of the Accusation)

12 Against:)

No. D-3495

13 JAMES R. GLOVER, M.D.)

ACCUSATION

200 Montgomery Drive, Suite B)

14 Santa Rosa, CA 95404)

Certificate No. A-023866)

15 Respondent.)

16

17 KENNETH J. WAGSTAFF, complainant herein, charges and
18 alleges as follows:

19 1. He is the Executive Director of the Board of
20 Medical Quality Assurance, State of California (hereinafter
21 "the Board") and makes these charges and allegations solely in
22 his official capacity.

23 2. On or about August 3, 1970, the Board issued to
24 respondent James R. Glover, M.D. (hereinafter "respondent")
25 physician and surgeon certificate No. A-023866. Said respondent
26 has been previously disciplined and is currently on probationary
27 status as set forth below:

1 On August 21, 1985, in case No. D-3303 before the
2 Board, respondent entered into a stipulation admitting that
3 cause existed to revoke or suspend his physician and surgeon
4 certificate and agreeing to discipline consisting of a
5 revocation, stayed for a period of five years probation on
6 certain terms and conditions, including a 30 day suspension,
7 relinquishment of the DEA permit for Schedule II and III
8 controlled substances and an oral clinical examination in the
9 medical therapeutics of controlled substances. Said stipulation
10 was adopted by the Board as its decision on October 23, 1985,
11 and the decision became effective on November 22, 1985.
12 A true and correct copy of said decision is attached hereto as
13 Exhibit 1 and incorporated herein by reference.

14 3. Section 2220 of the Business and Professions Code
15 provides that the Division of Medical Quality of the Board
16 (hereinafter "the Division") may take action against all
17 persons guilty of violating the provisions of the Medical
18 Practice Act (Business and Professions Code sections 2000 et seq.).

19 4. Section 2234 provides, in pertinent part,
20 that the Division shall take action against any licensee who
21 is charged with unprofessional conduct. Unprofessional conduct
22 is defined therein to include, (a) violating or attempting to
23 violate, directly or indirectly or assisting in or abetting
24 the violation of, or conspiring to violate any provision of the
25 Medical Practice Act and (e) the commission of any act of
26 dishonesty or corruption which is substantially related to the
27 qualifications, functions or duties of a physician and surgeon.

1 5. Section 2238 provides, in pertinent part, that the
2 violation of any of the statutes or regulations of the State of
3 California regulating narcotics, dangerous drugs, or controlled
4 substances constitutes unprofessional conduct.

5 6. Section 4232 provides, in pertinent part, that a
6 physician shall keep a current inventory of the sale, purchase
7 or disposition of dangerous drugs. Title 16, California
8 Administrative Code section 1718 defines "current inventory"
9 to include complete accountability for all dangerous drugs
10 handled by every licensee enumerated in section 4232.

11 7. Section 2239(a) provides, in pertinent part,
12 that the use or prescribing for or administering to himself or
13 herself of any controlled substance constitutes unprofessional
14 conduct.

15 8. Health and Safety Code section 11170 provides
16 that no person shall prescribe, administer or furnish a
17 controlled substance for himself.

18 9. Health and Safety Code section 11173(a) provides,
19 in pertinent part, that no person shall obtain controlled
20 substances by fraud, deceit, misrepresentation or subterfuge.

21 10. Health and Safety Code section 11190 provides,
22 in pertinent part, that every practitioner who issues a
23 prescription, or dispenses or administers a controlled substance
24 classified in Schedule II shall make a record that, as to the
25 transaction shows the name and address of the patient, the date,
26 and the character and quantity of controlled substances involved.
27 The prescriber's records shall show the pathology and purpose for

1 which the prescription is issued, or the controlled substance
2 administered, prescribed or dispensed.

3 11. Health and Safety Code section 11192 provides
4 that in a prosecution for a violation of section 11190, proof
5 that a defendant received or has had in his possession at any
6 time a greater amount of controlled substances than is accounted
7 for by any record required by law or that the amount of
8 controlled substances possessed by defendant is a lesser amount
9 than is accounted for by any record required by law is prima
10 facie evidence of a violation of the section.

11 12. Health and Safety Code section 26611 provides,
12 in pertinent part, that any drug is adulterated if it has
13 been produced, prepared, packed or held under conditions
14 whereby it may have been contaminated with filth, or whereby
15 it may have been rendered injurious to health. Health and
16 Safety Code section 26610 provides, in pertinent part, that
17 it is unlawful for any person to sell, deliver, hold or offer
18 for sale any drug that is adulterated.

19 13. Health and Safety Code section 26630 provides, in
20 pertinent part, that any drug is misbranded if its labeling is
21 false or misleading in any particular. Health and Safety Code
22 section 26650 provides, in pertinent part, that it is unlawful
23 for any person to sell, deliver, hold or offer for sale any
24 drug or device that is misbranded.

25 14. All drugs mentioned herein are controlled
26 substances and dangerous drugs as described in Schedules II, III,
27 IV or V, as set forth in sections 11055, 11056, 11057 and 11058 of the

1 Health and Safety Code.

2 15. Respondent has taken and successfully passed
3 his oral clinical examination in the medical therapeutics of
4 controlled substances, which concerned basic knowledge of the
5 proper use and prescribing of controlled substances as of
6 December 20, 1985.

7 FIRST CAUSE FOR DISCIPLINARY ACTION

8 16. Prior to the effective date of the decision
9 against respondent in Case No. D-3303 before the Board, on
10 November 8, 1985, respondent met with Board probation officer
11 Gerald McClellan. In that meeting, respondent was told that
12 he would not be able to possess any controlled substances
13 during his 30-day suspension. Respondent indicated he had only
14 a few manufacturers' samples and would dispense them or give
15 them away to a colleague before the effective date.

16 On November 22, 1985, the effective date of
17 the decision in Case No. 3303, respondent met with Gerald
18 McClellan in order to surrender his medical license for the
19 30 day suspension. Respondent indicated he had no controlled
20 substances in his possession, that they had been dispensed to
21 patients prior to the effective date. Mr. McClellan requested
22 respondent's drug inventory record per Business and
23 Professions Code section 4232, and respondent produced it.
24 The records indicated that respondent had in his possession
25 several thousand dosage units of controlled substances. Most of
26 these drugs were later found in the office of respondent's
27 colleague, at respondent's residence, and in respondent's

1 storage room. A copy of respondent's drug inventory record is
2 attached hereto as Exhibit 2 and incorporated herein by
3 reference.

4 17. Respondent's conduct, as indicated in paragraph
5 16, above, constitutes a violation of Health and Safety Code
6 sections 11173(a) and therefore is cause for
7 disciplinary action pursuant to sections 2238 and 2234.

8 SECOND CAUSE FOR DISCIPLINARY ACTION

9 18. The facts alleged in paragraph 16 above, are
10 incorporated herein by reference.

11 19. Respondent's drug inventory record indicated
12 he had self-prescribed or self-administered controlled substances
13 as follows:

14	Dalmane #10	30.0 mg	4/27/85
15	Halcion #10	0.25 mg	4/27/85
16	Halcion #8	0.25 mg	8/3/85
17	Restoril #3	15.0 mg	4/17/85
18	Restoril #3	30.0 mg	4/17/85
19	Restoril #6	30 mg	4/27/85
20	Valium #5	10 mg	4/22/85
21	Valium #20	10 mg	5/16/85

22 Respondent was also self-prescribing and administering Valium,
23 Xanax or other benzodiazapines from his own supply from in or
24 about September through November 22, 1985.

25 20. Respondent's conduct, as set forth in paragraphs
26 18 and 19, above constitutes a violation of Health and Safety
27 Code section 11170 and of Business and Professions Code section

1 2239(a) and therefore is cause for disciplinary action pursuant
2 to Business and Professions Code sections 2238 and 2234.

3 THIRD CAUSE FOR DISCIPLINARY ACTION

4 21. The allegations of paragraph 16, above, are
5 incorporated herein by reference.

6 22. In respondent's drug inventory record, he listed
7 the following Schedule II controlled substances:

8 Dexedrine #64 5 mg

9 Ritalin #7 5 mg

10 Ritalin #4 10 mg

11 Respondent did not have these drugs in his possession, and
12 there were no records to indicate their usage.

13 23. Respondent's conduct, as set forth in paragraphs
14 21 and 22, above, constitutes violations of Health and Safety
15 Code sections 11190 and 11192 and therefore is cause for
16 disciplinary action pursuant to Business and Professions Code
17 sections 2238 and 2234.

18 FOURTH CAUSE FOR DISCIPLINARY ACTION

19 26. The allegations of paragraph 16 above are
20 incorporated herein by reference.

21 27. Respondent's actual supply of controlled
22 substances and other dangerous drugs, when compared with his
23 drug inventory record indicated that the number counts of the
24 actual drugs differed significantly (were greater or lesser in
25 number) from the amounts indicated in the drug inventory record.

26 28. Respondent's conduct, as set forth in paragraphs
27 26 and 27, above, constitutes violations of Business and

1 Professions Code sections 4232 and Title 16 California
2 Administrative Code section 1718 and therefore is cause for
3 disciplinary action pursuant to Business and Professions Code
4 sections 2238 and 2234.

5 FIFTH CAUSE FOR DISCIPLINARY ACTION

6 29. The allegations of paragraph 16 above are
7 incorporated herein by reference.

8 30. Included in respondent's actual supply of
9 controlled substances and other dangerous drugs were several
10 vials of medications which were obtained in various patient
11 names and returned to respondent in the pharmacy-dispensed
12 vials. Respondent dispensed these medications to patients for
13 whom they were not prescribed.

14 31. Respondent's conduct, as set forth in paragraphs
15 29 and 30 constitutes violations of Health and Safety Code
16 sections 26630 and 26650 and therefore is cause for disciplinary
17 action pursuant to Business and Professions Code sections 2238
18 and 2234.

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WHEREFORE, complainant requests that the Board hold a hearing on the matters alleged herein and following said hearing issue a decision revoking or suspending the physician's and surgeon's certificate No. A-023866 issued to James R. Glover, M.D. and take such other and further action as the Board deems proper.

DATED: May 9, 1986

KENNETH J. WAGSTAFF
Executive Director
Board of Medical Quality Assurance
Division of Medical Quality
State of California

Complainant